

STATE OF ARIZONA
Department of Health Services
NOTICE OF REQUEST FOR PROPOSALS

ARIZONA
DEPARTMENT OF
HEALTH SERVICES
1740 West Adams Street
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 Fax

SOLICITATION NUMBER: **SOLICITATION NUMBER: HP841091**

SOLICITATION DUE DATE/TIME: **Solicitation Due Date: October 26, 2007 at 3:00 P.M. Local Time**

SUBMITTAL LOCATION: **Arizona Department of Health Services
Office of Procurement
1740 West Adams Street, Room 303
Phoenix, Arizona 85007**

DESCRIPTION: **Pharmacy Management Services
October 10, 2007 2:00 P.M. – 4:00 P.M.**

PRE-OFFER CONFERENCE **2500 East Van Buren Street
Conference Room B in the Hunt Building
Phoenix, Arizona 85008**

Date Time Location

In accordance with A.R.S. § 41-2534, competitive sealed proposals for the services specified will be received by the Arizona Department of Health Services at the above specified location, until the time and date cited. Offers received by the correct time and date will be opened and the name of each offeror will be publicly read.

Offers must be in the actual possession of the Arizona Department of Health Services on or prior to the time and date, and at the location indicated above. Late offers will not be considered.

Offers must be submitted in a sealed envelope or package with the solicitation number and the offeror's name and address clearly indicated on the envelope or package. All offers must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this solicitation.

With seventy-two (72) hours prior notice, persons with disabilities may request special accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Such requests are to be addressed to the solicitation contact person named below.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION

Solicitation Contact Person:

Rebecca O'Brien

Arizona Department of Health Services

(602) 364-2116

obrienr@azdhs.gov

Procurement Administrator

Date

UNIFORM INSTRUCTIONS TO OFFERORS

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A. Definition of Terms. As used in these Instructions, the terms listed below are defined as follows:

1. *"Attachment"* means any item the Solicitation requires an Offeror to submit as part of the Offer.
2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
4. *"Contractor"* means any person who has a Contract with the State.
5. *"Days"* means calendar days unless otherwise specified.
6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
7. *"Offer"* means bid, proposal or quotation.
8. *"Offeror"* means a vendor who responds to a Solicitation.
9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
10. *"Solicitation"* means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").
11. *"Solicitation Amendment"* means a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.
12. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
13. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

B. Inquiries

1. **Duty to Examine.** It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.
2. **Solicitation Contact Person.** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.
3. **Submission of Inquiries.** The Procurement Officer or the person identified in the Solicitation as the contact for inquiries except at the Pre-Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

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4. **Timeliness.** Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
5. **No Right to Rely on Verbal Responses.** An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the solicitation.
6. **Solicitation Amendments.** The Solicitation shall only be modified by a Solicitation Amendment.
7. **Pre-Offer Conference.** If a pre-Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.
8. **Persons With Disabilities.** Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

C. Offer Preparation

1. **Forms: No Facsimile, Telegraphic or Electronic Mail Offers.** An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids.
2. **Typed or Ink; Corrections.** The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.
3. **Evidence of Intent to be Bound.** The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.
4. **Exceptions to Terms and Conditions.** All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.
 - i. **Invitation for Bids.** An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.
 - ii. **Request for Proposals.** All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.
5. **Subcontracts.** Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
6. **Cost of Offer Preparation.** The State will not reimburse any Offeror the cost of responding to a Solicitation.

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7. Solicitation Amendments. Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a Solicitation Amendment may result in rejection of the Offer.
8. Federal Excise Tax. The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.
9. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.
- 9.1 Employee Identification. Offeror agrees to provide an employee identification number or social security number to the Department for the purposes of reporting to appropriate taxing authorities, monies paid by the Department under this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.
10. Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be included in the pricing offered in the solicitation. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.
11. Disclosure. If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
12. Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:
 - 12.1 Special Terms and Conditions;
 - 12.2 Uniform Terms and Conditions;
 - 12.3 Statement or Scope of Work;
 - 12.4 Specifications;
 - 12.5 Attachments;
 - 12.6 Exhibits;
 - 12.7 Special Instructions to Offerors;
 - 12.8 Uniform Instructions to Offerors.
 - 12.9 Other documents referenced or included in the Solicitation.
13. Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

D. Submission of Offer

1. Sealed Envelope or Package. Each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.
2. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

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3. **Public Record.** All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.
4. **Non-collusion, Employment, and Services.** By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
 - i. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
 - ii. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

E. Evaluation

1. **Unit Price Prevails.** In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
2. **Prompt Payment Discount.** Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purposes of evaluating that price.
3. **Late Offers.** An Offer submitted after the exact Offer due date and time shall be rejected.
4. **Disqualification.** A Offeror (including each of its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.
5. **Offer Acceptance Period.** An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred-twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred-twenty (120) days from the Best and Final Offer due date.
- 5.6 **Waiver and Rejection Rights.** Notwithstanding any other provision of the Solicitation, the State reserves the right to:
 - 5.6.1 Waive any minor informality;
 - 5.6.2 Reject any and all Offers or portions thereof; or
 - 5.6.3 Cancel the Solicitation.

F. Award

1. **Number or Types of Awards.** The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, "all or none" Offers shall be rejected.
2. **Contract Inception.** An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.
3. **Effective Date.** The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

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G. Protests.

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

- 1.1 The name, address and telephone number of the protester;
- 1.2 The signature of the protester or its representative;
- 1.3 Identification of the purchasing agency and the Solicitation or Contract number;
- 1.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- 1.5 The form of relief requested.

H. Comments Welcome

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

SPECIAL INSTRUCTIONS TO OFFERORS

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1. BACKGROUND

It is the intention of ADHS to seek proposals, and to enter into a contract for Pharmacy Management Services for the Arizona State Hospital and Arizona Community Protection and Treatment Center (ACPTC), otherwise known as the Hospital.

2. PRE-OFFER CONFERENCE

Prospective Offerors are invited to attend a pre-offer conference and tour. The date, time and location of this conference are indicated below. The purpose of this conference shall be to clarify the contents of this RFP in order to prevent any misunderstanding of the State's position. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to the State at this conference. The State will then determine the appropriate action necessary, if any, and may issue a written amendment to the RFP. Oral statements or instructions shall not constitute an amendment to this RFP. This shall be the only opportunity for bidders to tour the Hospital facility and grounds.

Conference date: **October 10, 2007**

Conference time: 2:00 P.M. – 4:00 P.M.

Conference location: Arizona State Hospital, 2500 East Van Buren Street, Phoenix, AZ 85008, Conference Room D198 in the Administration Building

3. PROPOSAL FORMAT

One (1) original and five (5) copies of each proposal shall be submitted in the format specified in the RFP. The original copy of the proposal should be clearly labeled "ORIGINAL", and all copies shall clearly state "COPY". Each proposal shall include table of contents, and tabs for each response section. The State shall not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal. The proposal shall include at least the following information:

3.1 Method of Approach: A written narrative of the Method of Approach to be utilized in performance of the services required by this RFP.

4.11 The Offeror shall prepare and submit a written narrative describing how the Offeror will provide the service for which they are submitting an offer. This should include a description of staff organization and staff resources, to include number of Pharmacists, Pharmacy Technicians, and Administrative support, method of service delivery, expected outcomes and timelines for completing tasks (not to exceed 10 pages).

3.2 Experience and Expertise:

3.21 Summary. A summary of the offeror's experience and expertise regarding the services offered. Summary shall not exceed five (5) pages, including but not limited to company history, number of years in business, types of services provided, number of full- and part-time employees, number and type of clients for the last two years.

3.22 Background Information. Reports prepared for clients and information regarding past or current projects shall be submitted. Background information shall relate to the services described in the Scope of Work.

3.23 Resumes. Include resumes of key persons responsible for the delivery of services being offered. If any part of the offerors work on any contract awarded pursuant to this RFP is to be performed by subcontractors or consultants, the offeror shall identify such parties and describe their functions, as well as the contractual agreements with said parties.

SPECIAL INSTRUCTIONS TO OFFERORS

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- 3.24 References. Offeror shall submit names and telephone numbers of prior or current customers who have received similar services from the Offeror in a similar sized Hospital environment where compliance of all rules, regulations, processes and procedures as defined by Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Centers for Medicare and Medicaid Services ("CMS"), State Assurance and Licensure, Office of Behavioral Health, Centers for Disease Control ("CDC"), Environmental Protection Agency ("EPA"), Food and Drug Administration ("FDA"), Occupational Safety and Health Administration ("OSHA"), County, Hospital Policies and Procedures and HIPAA regulations were required. The references shall include dates and descriptions of services provided. At least three (3) references must be submitted for each service in which you intend to submit an offer. If possible, at least one (1) reference should be located in Arizona and/or the Phoenix area.
- 3.25 Offeror may provide additional information regarding skills, training, unique situations encountered related to their professional experiences, and a description of the process used to resolve any conflicts or problems.
- 3.26 The Offeror shall submit examples of prior work activities, similar to those listed in the RFP service categories, provided to Hospitals of similar size or service or other medical facilities within the last three (3) years.

3.3 Resource Capacity and Effectiveness:

The Offeror shall provide a description of financial and staff resources available to provide the service as described in Special Terms and Conditions, including but not limited to number of employees, years of experience, certification, and specialized training or education.

3.4 Signed Offer and Acceptance document by authorized person:

3.5 Completed Price Sheet:

4. PROPOSAL OPENING

Proposals shall be opened publicly at the time and place designated on the cover page of this document. The name of each Offeror shall be read publicly and recorded. Prices will NOT be read. Proposals will not be subject to public inspection until after contract awards.

5. EVALUATION CRITERIA

In accordance with A.R.S. § 41-2534, competitive sealed proposals, awards shall be made to the offeror whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below. The Evaluation Factors are listed in their relative order of importance.

- Method of approach/operational plan for the service, including current and prior examples, as requested.
- Evidence of experience and expertise in providing similar services.
- Resource capacity to complete the services.
- Conformance to all RFP requirements.
- Cost.

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6. DISCUSSIONS

In accordance with A.R.S. §41-2534, after the initial receipt of proposals, the State reserves the option to conduct discussions with those offeror's that submit proposals determined by the State to be reasonably susceptible of being selected for a contract award.

7. SUBMISSION OF PROPOSAL

Proposal packages should be organized and submitted in the following sequence:

- Signed Offer and Acceptance Document;
- Signed Solicitation Amendments, if applicable;
- Method of Approach for service as described in Special Instructions to Offerors, Paragraph (4), Section (4.1).
- Experience and Expertise items, as described in Special Instructions to Offerors, Paragraph (4), Section (4.2).
- Resource Capacity and Effectiveness items, as described in Special Instructions to Offerors, Paragraph (4), Section (4.3).
- Completed Price Sheet.
- Copy of Uniform Terms and Conditions and Special Terms and Conditions (One set only in the original proposal).
- If applicable, all other attachments.

UNIFORM TERMS AND CONDITIONS

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- 1 Definition of Terms.** As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:
- 1.1 *“Attachment”* means any item the Solicitation requires the Offeror to submit as part of the Offer.
 - 1.2 *“Contract”* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
 - 1.3 *“Contract Amendment”* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
 - 1.4 *“Contractor”* means any person who has a Contract with the State.
 - 1.5 *“Days”* means calendar days unless otherwise specified.
 - 1.6 *“Exhibit”* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
 - 1.7 *“Gratuity”* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
 - 1.8 *“Materials”* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
 - 1.9 *“Procurement Officer”* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
 - 1.10 *“Services”* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
 - 1.11 *“Subcontract”* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
 - 1.12 *“State”* means the State of Arizona and Department or Agency of the State that executes the Contract.
 - 1.13 *“State Fiscal Year”* means the period beginning with July 1 and ending June 30,
- 2 Contract Interpretation**
- 2.1 Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
 - 2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
 - 2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1 Special Terms and Conditions;
 - 2.3.2 Uniform Terms and Conditions;
 - 2.3.3 Statement or Scope of Work;
 - 2.3.4 Specifications;
 - 2.3.5 Attachments;

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- 2.3.6 Exhibits;
- 2.3.7 Documents referenced or included in the Solicitation.
- 2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 No Parol Evidence . This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 3 Contract administration and operation.**
- 3.1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a

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result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of the contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

- 4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2 Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3 Applicable Taxes.
 - 4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
 - 4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
 - 4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
 - 4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current IRS W9 Form on file with the State of Arizona, unless not required by law.
- 4.4 Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5 Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
 - 4.5.1 Accept a decrease in price offered by the, contractor
 - 4.5.2 Cancel the Contract
 - 4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract changes

- 5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made

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unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

6.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers."

6.3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

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- 6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

- 7.1 Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
 - 7.2.1 Of a quality to pass without objection in the trade under the Contract description;
 - 7.2.2 Fit for the intended purposes for which the materials are used;
 - 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
 - 7.2.4 Adequately contained, packaged and marked as the Contract may require; and
 - 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 Year 2000.
 - 7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of *force majeure* shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.
 - 7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the

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extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of *force majeure* shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.

- 7.6 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 7.7 Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.71 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.
- 8 State's Contractual Remedies**
- 8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 Stop Work Order.
- 8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming

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performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

- 9.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5 Termination for Default.
- 9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6 Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

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10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title

12 Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

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1. PURPOSE

Pursuant to provisions of the Arizona Procurement Code, A.R.S. ' 41-2501 Et Seq., Arizona Department of Health Services intends to establish a contract for Pharmacy Management Services for the Arizona State Hospital and the Arizona Community Protection and Treatment Center, otherwise known as The Hospital, in accordance with the terms and conditions outlined in this RFP.

2. TERM OF CONTRACT (1 YEAR)

The term of the resultant Contract shall commence February 1, 2008, and shall remain in effect for one year, unless terminated, canceled, or extended as otherwise provided herein.

3. CONTRACT EXTENSIONS (4 YEAR MAXIMUM)

The Department may, by mutual written Contract amendment, extend any resultant Contract in up to twelve (12) month increments for a maximum of four (4) years. The Contract term shall not exceed a total of five (5) years from the date of Contract award.

4. CONTRACT TYPE

☒ Fixed Price

5. PRICE INCREASE/PRICE DECREASE

Contractor prices accepted and subsequently awarded by a Contract in response to this RFP shall remain in effect for a minimum of one (1) year. The Contractor may request a price adjustment, but the State will not review or approve an increase until the Contract has been in effect for one (1) year. The Hospital and the State Procurement Office will review any requested rate increase to determine whether such request is reasonable in relation to increased supplier or material costs. Contractor shall provide written justification for any price adjustment requested. Any price increase adjustment, if approved, will be effective upon execution of a written Contract amendment. Likewise, the Contractor shall offer the State a price adjustment reduction concurrent with reduced costs from their suppliers. Price reductions will become effective upon execution of a Contract amendment.

6. TAX EXEMPTION

The Hospital is exempt from sales tax. In accordance with the State of Arizona Transaction Privilege and Use Tax Audit, the Contractor agrees that it will not charge sales tax for this project. A copy will be provided at Contract award.

7. KEY PERSONNEL

It is essential that the Contractor provide qualified and competent personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the Hospital. If key personnel are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the Hospital, and shall, subject to the concurrence of the state, replace such personnel with personnel of substantially equal ability and qualifications.

Contractor shall submit the name(s) and local telephone number(s) of specific key personnel that will be assigned to the Hospital. Key contact (responsible for communication with the Hospital's Contract Manager) shall be physically located in the Phoenix Metropolitan area.

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All Contractor employees shall be required to attend Hospital new employee orientation training prior to beginning any work at the Hospital.

8. POLICIES AND PROCEDURES

The Contractor is required to have a Policies and Procedures manual that pertains to the services that are to be provided to the Hospital. Additional Policies and Procedures may need to be developed for these services. After Contract award the Contractor shall work with the Hospital to develop any that may be required.

9. NON-EXCLUSIVE CONTRACT

The State reserves the right to obtain like goods or services from another source when necessary, or when determined to be in the best interest of the State.

10. ESTIMATED QUANTITIES

No commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential Contractor.

11. SINGLE AWARD CONTRACT

This is an all or nothing bid. All items within this solicitation have been grouped together for purposes of obtaining these items collectively from a single source. To be considered for award of this solicitation, the bidder is required to provide prices on all items within this solicitation. Failure to provide pricing for any item within the solicitation shall result in the bidder being declared non-responsive and ineligible to receive an award.

12. PAYMENT/INVOICING

The Contractor will be paid in accordance with the proposed Contract amount, as accepted by the Arizona Department of Health Services, and the Arizona State Hospital. The Contractor's sole compensation will be from the proposed amounts annotated on the pricing sheet. The State will not pay for services and/or products in advance. Payments will be made monthly, for completion of services as shown by an itemized invoice, submitted by the Contractor by the 30th day of the month following service. Payments will not be authorized if the invoice submitted is incomplete or does not contain the necessary information needed to properly review. Payment for items not authorized under this Contract will be rejected unless prior approval has been given by authorized Hospital personnel.

13. AUTHORIZATION FOR PROVISION OF SERVICES

Authorization for purchase of services under this contract shall be made only upon ADHS issuance of a Purchase Order that is signed by an authorized agent. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform services up to the amount on the Purchase Order. ADHS shall not have any legal obligation to pay for services in excess of the amount indicated on the Purchase Order. No further obligation for payment shall exist on behalf of ADHS unless a) the Purchase Order is changed or modified with an official ADHS Procurement Change Order, and/or b) an additional Purchase Order is issued for purchase of services under this contract.

14. VENDOR REGISTRATION

Prior to issuance of a Purchase Order and subsequent payment and/or formal award, the Contractor shall have a completed STATE OF ARIZONA SUBSTITUTE W-9 FORM on file with the State. No payments shall be made until the form is on file. The STATE OF ARIZONA SUBSTITUTE W-9 FORM will be provided to the Contractor at the time of Award and must be completely filled out and returned prior to the start of any project for the State.

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15. VENDOR PERFORMANCE REPORTS

The Hospital Management shall document vendor performance, both exemplary and needing improvements where corrective action is needed or desired. Copies of corrective action reports will be forwarded to the ADHS Procurement Office for review and any necessary follow-up. The Procurement Office may contact the Contractor upon receipt of the report and may request corrective action. The Procurement Office shall discuss the Contractor's suggested corrective action plan with the representative for the Hospital.

16. INFORMATION DISCLOSURE

The Contractor shall establish and maintain procedures and controls that are acceptable to the State for the purpose of assuring that no information contained in its records or obtained from the state or from others in carrying out its functions under the Contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the State. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the State.

17. FEDERAL IMMIGRATION LAWS, COMPLIANCE BY STATE CONTRACTORS

By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at USCIS.GOV

The State may request verification of compliance for any Contractor or subcontractor performing work under the Contract. Should the State suspect or find that the Contractor or any of its subcontractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

18. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this Contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the Contract. This provision applies to work performed by subcontractors at all tiers.

19. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996

The Contractor warrants that it is familiar with the requirements of HIPAA and HIPAA's accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both the ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the ADHS Privacy Officer and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

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If requested by the ADHS, Contractor agrees to sign the "Arizona Department of Health Services Pledge to Protect Confidential Information" and to abide by the statements addressing the creation, Use and Disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by the ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ADHS HIPAA Compliance Officer.

20. HIPAA BUSINESS ASSOCIATE AGREEMENT

Included as an attachment to this Contract is a Health Insurance Portability and Accountability Act of 1996 (HIPAA) Business Associate Agreement (HIPAA BAA). Before the general Contract may be awarded to the Contractor or approved for execution by the State the Contractor must agree to execute the attached agreement or negotiate and agree to execute an agreement with terms that, in the minimum meet the requirements of the Privacy and Security Regulations, 45 CFR 164.504(e)(2) and 164.314(2)(i), and that are approved by ADHS. This Agreement binds the Contractor to comply with the requirements of HIPAA in safeguarding protected health information that is disclosed, used, created or received by the Contractor for or on behalf of the ADHS. If the Contractor violates the HIPAA BAA during the term of this Contract, the Contractor will be in default under the terms of this Contract, and the State may exercise any of its rights and remedies available to it.

21. INDEMNIFICATION CLAUSE

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

22. INSURANCE REQUIREMENTS

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

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- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- | | |
|--|-------------|
| • General Aggregate | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |
| • Personal and Advertising Injury | \$1,000,000 |
| • Blanket Contractual Liability – Written and Oral | \$1,000,000 |
| • Fire Legal Liability | \$ 50,000 |
| • Each Occurrence | \$1,000,000 |

- a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor”.***

- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- | | |
|-------------------------------|-------------|
| • Combined Single Limit (CSL) | \$1,000,000 |
|-------------------------------|-------------|

- a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor”.***

3. **Worker's Compensation and Employers' Liability**

- | | |
|-------------------------|-------------|
| • Workers' Compensation | Statutory |
| • Employers' Liability | |
| Each Accident | \$ 500,000 |
| Disease – Each Employee | \$ 500,000 |
| Disease – Policy Limit | \$1,000,000 |

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

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4. Professional Liability (Errors and Omissions Liability)

- Each Claim \$1,000,000
- Annual Aggregate \$2,000,000
- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- c. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to **The Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona, 85007** and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

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All certificates required by this Contract shall be sent directly to **The Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona, 85007**. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.
- H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

23. PANDEMIC CONTRACTUAL PERFORMANCE

The State shall require a written plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. The State may require a copy of the plan at anytime prior to or post award of a contract. At a minimum, the pandemic performance plan shall include:

- a. Key succession and performance planning if there is a sudden significant decrease in contractor's workforce.
- b. Alternative methods to ensure there are products in the supply chain.
- c. An up to date list of company contacts and organizational chart.

In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights:

- d. After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections, if the contractor cannot perform to the standards agreed upon in the initial terms.
- e. The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the Director as per A.R.S. 41-2537 of the Arizona Procurement Code.
- f. Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, the State, at its sole discretion, may reinstate the temporarily voided contract(s).

24. TRANSITION ACTIVITIES

- A. Upon termination of this Contract, if ADHS anticipates a continued need for the Contract Services specified herein and a contract is awarded to a new Contractor, there shall be a transition of services period of not less than thirty (30) days. During this period, the existing Contractor shall work closely with the new Contractor, or Contractors, personnel and/or staff to ensure a smooth and complete transfer of duties and responsibilities.

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- B. An authorized representative from the Hospital shall coordinate all transition activities. A transition plan will be developed in conjunction with the outgoing Contractor to assist the new Contractor, or Contractors, personnel and/or staff to implement the transfer of duties.
- C. ADHS reserves the right to determine which projects nearing completion will remain with the current Contractor of record.
- D. The Contractor shall return all Hospital equipment, reports, and any other documentation developed during the term of the Contract that the Hospital deems necessary to maintain ongoing operations. An audit of all Hospital owned equipment shall be performed prior to transition.

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ARIZONA STATE HOSPITAL

1. **BACKGROUND**

The Arizona State Hospital (Hospital) is a unit of the Division of Behavioral Health Services (BHS) of the Arizona Department of Health Services (ADHS). It is established and operated under A.R.S. 36-202 “for the care and treatment of persons with mental disorders and persons with other personality disorders or emotional conditions who will benefit from care and treatment.”

The Hospital’s Mission Statement: “To restore and enhance the mental health of persons requiring psychiatric services in a safe and therapeutic environment” encompasses all aspects of the patient’s daily life, treatment, and environment. The Contract is a key component to ensure that the Mission Statement is fulfilled. The successful Contractor shall demonstrate in its Proposal and contract execution, the same level of caring and attention to detail to the patient’s health and comfort that the Hospital staff exhibits on a daily basis.

The Hospital provides treatment and rehabilitative services to the most severely mentally ill persons in the state. This is a court-ordered, civil, and forensic committed treatment center. Individuals must be suffering from a behavioral health illness, which has severely impaired their functioning and ability to live within their family and community. The Hospital’s current population is approximately 275 patients in fourteen (14) separate units divided into four (4) separate areas.

The Arizona State Legislature enacted A.R.S. 36-3701 in the 1997 legislative session requiring the housing of “sexually violent persons” (SVP) at the Arizona State Hospital in the Arizona Community Protection and Treatment Center (ACPTC) program.

ACPTC provides for a secure treatment environment for sexually violent persons (“residents”) who have been determined to have a mental disorder and need to be committed to protect the health and safety of others in the community. The ACPTC’s current population is approximately 100 residents in three (3) separate units and may increase to 120 residents in four (4) separate units.

The Hospital and ACTPC, otherwise known as The Hospital, are located at 2500 East Van Buren Street, Phoenix, Arizona 85008. The Hospital operates twenty-four hours (24) per day, three hundred sixty-five (365) days per year.

2. **OBJECTIVE**

To provide comprehensive, on-site, modern, patient-care oriented Pharmacy services to Hospital patients and residents in a manner consistent with the provisions and requirements of the Arizona State Hospital and the professional and ethical standards of the professions.

3. **SERVICE RECIPIENTS**

Patients at the Hospital and residents at the ACPTC.

4. **SCOPE OF WORK**

The Contractor shall be responsible for the on-going operation of Arizona State Hospital’s pharmacy services with the following specifications:

4.1 **Hours of Operation**

Hours of operation shall be from 8:00 am to 7:00 pm, Monday thru Friday, to ensure that orders received between 8:00 am and 5:00 pm are reviewed and filled.

4.2 **Pharmacy Staffing**

The pharmacy shall be staffed by the Director of Pharmacy, staff pharmacists and pharmacy technicians, with at least one Pharmacist certified in Psychopharmacology. The staffing may be adjusted as the hospital census changes and as agreed to by both parties, in writing. All orders

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received between 8:00 am and 5:00 pm shall be reviewed, filled, and delivered to the unit the same day. Pharmacy staff shall be fully trained in their specialty and able to provide evidence of appropriate licensure/certification and competency. The ADHS reserves the right to require the replacement of Contractor staff deemed unsatisfactory and the right to interview and approve replacement staff prior to placement.

4.3 On-Call Coverage

The Contractor shall provide twenty four (24) hour, seven (7) days a week, on-call service with a one-hour response time when called by the Psych Nurse Coordinator. The Director of Pharmacy shall establish an on-call rotation for all staff pharmacist for this purpose. The Contractor shall provide for twenty four (24) hour pharmacist / physician consultation and approval of after hours medication orders. Home phone numbers and pager numbers must be provided to the hospital switchboard operator so that the pharmacist on-call can be reached promptly. Response, in person, to the Hospital shall be required in the event of critical issues, as determined by the Hospital, such as, medication inventories, essential to patient treatment, are depleted. Hospital requires in-person response to inventory issues not to exceed 1.5 hours after notification.

4.4 Medication Dispensing

All oral medication, including liquid medication shall be dispensed in the individual unit dose package. Pharmacy personnel shall purchase medication in manufacturer's unit dose packing where possible. Medication that cannot be purchased in the manufacturer's unit dose packaging shall be unit dosed by pharmacy personnel. Injectable medications shall be purchased in a single dose ampules where possible. Liquid medications shall be purchased in manufacturer's unit dose packaging when available and when cost-effective. Liquid medications that cannot be purchased in manufacturer's unit dose packaging or are cost prohibitive shall be unit dosed by pharmacy personnel. Liquid medications dispensed in quantities of 1 ml or less shall be dispensed in oral syringes. Liquid medications dispensed in quantities of greater than 1ml shall be dispensed in 5 ml unit dose cups. Labels for the oral syringes and unit dose cups shall be printed from the pharmacy computer system.

4.5 Automated Medication Dispensing Machines / Medication Delivery

The Hospital currently owns and maintains sixteen (16) PYXIS 2000 automated medication dispensing machines and one (1) Console/workstation. These machines automate, track and manage the security of medications. Pharmacy Techs shall deliver medications, and fill all PYXIS machines to ensure adequate supply at all times, including weekends and holidays. Deliveries will include all Hospital units or upon request of nursing personnel and physicians. Inventory issues discovered after hours or on recognized holidays or weekends will result in an On-Call response as described in the "Scope of Work", paragraph 4.3. Please note section 5.5 under Technology requesting pricing for updated automated medication dispensing equipment.

4.6 Patient Medication Orders

All orders shall be faxed to pharmacy by nursing personnel; additional methods may be incorporated as determined by the Hospital.

4.7 Controlled Substance Reconciliation

Pharmacy will notify nursing weekly that reconciliation of controlled substance inventories is needed. Nursing will be notified via e-mail and will initiate a physical count to compare and reconcile with the Pharmacy records (Hospital will provide sample sheet). Pharmacy will provide a report to the Director of Nursing when complete.

4.8 Medicare Part D

The Contractor on behalf of the Hospital shall submit claims to third party insurance carriers/payors in compliance with the reimbursement or payment plans for prescription drugs for patients deemed eligible for Medicare Part D benefits. Contractor shall be responsible for all expenses associated with maintaining pricing system tables, online claims processing, transaction fees, third party supplier fees,

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and installing software updates to allow for timely adjudications. Contractor shall maintain patient profiles which include all necessary information as required by Medicare, Medicaid and JCAHO standards. Contractor shall participate in the discharge process to reconcile patient medication prior to discharge to determine best options based on provider formularies. Contractor shall provide the following reports related to Medicare Part D billing:

- A. Base Report: A list of all patients assigned to 3rd party payors including plans and group numbers.
- B. Billing Report: Claims billed to 3rd party payors, what was reimbursed by plan, by patient, and by facility.
- C. Reject Report: Claims rejected by plan and what was resubmitted.
- D. Cost Report: Report by payor plan of what was billed by ingredient cost, dispensed, any co-pay, total reimbursed, and Hospital acquisition costs.
- E. Reconciliation of Benefits Against Billing Explanation Report:

4.9 Medication Ordering and Inventory Control

The Contractor, on behalf of the Hospital, shall order medications which meet quality levels and are consistent with the Formulary, by using established State Purchasing or ADHS Pharmaceutical contracts. If a Primary Vendor Purchasing System must be used, drug items shall be ordered in small quantities several times per week. Past usage history and on-hand quantities shall be utilized in determining the order quantities. The smallest amount of stock (yet enough to ensure timely delivery of drugs) possible shall be maintained. Stock cards and usage reports obtained from the Primary Vendor shall be utilized to determine necessary stock levels. Pharmacy personnel shall be responsible for all delivery and invoice discrepancies. Pharmacy personnel shall follow up on orders when necessary. Pharmacy personnel shall inventory the entire drug stock on a annual basis. Inventory count sheets shall be generated by the pharmacy computer system. Inventory teams shall count all drug inventories in the pharmacy and record it on the computer generated count sheets.

4.10 In-service Education, New Employee Orientation, Staff / Patient Education

The Director of Pharmacy, and the Staff Pharmacists shall be responsible for providing in-service education and new employee orientation to Hospital staff as requested. Specifically, Pharmacy shall provide a training class and orientation to new nurses as outlined by the Training and Education Department every two (2) weeks. The new nurse training class shall include The Medication Administration Training consisting of, but not limited to the following:

- Schizophrenia
- Bipolar Disorder
- Depression
- Obsessive-Compulsive Disorder
- Generalized Anxiety Disorder
- Excessive Fluid Consumption
- Metabolic Syndrome
- Clozapine and Management of Side Effects
- Targeted High Risk Medications (Lithium, NSAIDs, Warfarin, and Insulin)
- Care of the IV Patient
- Medication Use in the Elderly Patient
- Insulin Update
- Look-Alike, Sound-Alike Medication
- National Patient Safety Goals
- Developing a Supportive Culture
- Medication Safety
- Medication Errors
- Reporting Adverse Drug Reactions
- Preventing the Spread of MRSA
- Handouts about New Medications
- Monthly Pharmacy Newsletter about New Drugs, Topics in Psychiatry

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- Other In-Services as requested by nursing personnel or as deemed necessary by committee agendas/actions.
- Numerous Patient Education Pamphlets, Newsletters
- Assist on a daily basis with patient education classes on Diabetes, Cardiovascular Disorders such as Hypertension, Dyslipidemia, and Hepatitis C.

In-service for staff as well as patients covering topics such as New Drugs, What Are You Taking and Why, Side Effects of Your Medications, and other requested topics shall also be presented by pharmacy personnel. Evaluation forms shall be used to change and/or improve the in-services presented by pharmacy personnel. Surveys shall also be used periodically to request suggestions for additional pharmacy in-services. The Director of Pharmacy shall develop written color Pamphlets for all current pharmacology drugs commonly used including antipsychotics, antidepressants, antipsychotropic, and anxiolytic medications. With the approval of the Pharmacy and Therapeutics Committee and the Medical staff, these color pamphlets shall be used to help nursing personnel educate patients about their medications. Pharmacy personnel shall also prepare food/drug interaction cards that shall be used by the nursing personnel to help educate the patients about potential food/drug interactions. Hospital personnel shall evaluate the assistance provided by pharmacy personnel and request additional assistance when necessary.

5. TECHNOLOGY

Division of Information Technology Services – Department of Health Services Technology Division provides technology solutions to the entire Department of Health Services including the State Hospital.

Information Services – Separate department of the Arizona State Hospital, coordinates technology budget, hardware needs, provides Avatar Administrative functions, and daily, weekly, monthly and ad hoc report generation.

5.1 Technical Environment:

The Arizona State Hospital is part of the Department of Health Services and receives information technology services and support from the Division of Information Technology Services. The Hospital is running Active Directory with a mixture of Windows 2000 and XP. The email system is Outlook.

5.2 Compatibility:

The contractor shall provide a computer system that is compatible with and capable of interfacing with the Hospital system. The contractor shall have the ability to interface using standard HL7 interfaces with any new systems/subsystems purchased and/or developed by the Division of Information Technology Services or Information Services that provides the capability for the use of the HL7 interface standard. The current version is 2.3.1 supported by the Electronic Medical Record Vendor.

The contractor shall provide competent staff to work with and assist in the design, development, testing and installation of any new interface. Contractor will also provide support related to their side of the interface.

5.3 Division of Information Technology Services Policy:

Contractor will comply with all applicable DHS ITS policies and procedures including but not limited to:

- a) Reporting any issues with the division IT Infrastructure to the ITS Help desk
- b) Requiring all employees who will use department IT resources to sign all usage and confidentiality agreements.
- c) Utilizing all department technology equipment shall be for business use only.
- d) Utilizing department internet capacity for business only. Under no circumstances and/or during no timeframe shall any of the contractors staff use the department's

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- equipment or data infrastructure to access any site that displays pornographic content.
- e) Utilizing the division email system shall be for official business only. Contractor staff will not forward non-business email including jokes, chain mail or "cute" stories.

All questions regarding ITS issues shall be directed to the Hospital Project Control Manager. If the Hospital Project Control Manager position is vacant, then all questions regarding ITS issues will be directed to the Division of Technology Services CIO.

5.4 Contractor's Computer System Capabilities:

The Contractor's computer system shall have the capability to maintain patient profiles, enter drug orders, print various reports, print free text labels, perform all types of patient billing, run kinetics and maintain a formulary program. Patient profiles maintained on the contractor's computer system shall include all necessary information as required by Medicare, Medicaid and JCAHO standards including, but not limited to: patient name, medical record number, date of birth or age, weight, allergies, diagnosis, physician name and location of patient's housing (i.e., unit, ward, room numbers). In addition, the contractor's computer system must be equipped with a pharmacy software system sufficient to meet the needs of prescription drug ordering and distribution to an LTC facility. The contractor's system will provide the necessary functionality to ensure that each unit is properly stocked with the necessary medications to meet the needs of the residents on each unit. The contractor's computer system will have the functionality to ensure that each unit is sufficiently stocked to account for extended weekends and other holiday periods. Contractor's computer system must have the ability to bill Medicare Part D for all eligible Arizona State Hospital residents.

5.5 Existing Equipment and Update of Existing Equipment:

The contractor shall make use of all existing PYXIS equipment provided by the Hospital. In addition the Contractor shall provide information and pricing on the Price Sheet, page 36, for the update of all existing PYXIS equipment to include monthly support charges.

5.51 Equipment Requirements:

- a) Sixteen (16) Medstation 3500 Profile six (6) drawer main with up to three (3) cubie/min drawers or a substantially similar model.
- b) Seven (7) Medstation 3500 seven (7) drawer auxiliary, zero (0) cubie/mini drawers or a substantially similar model.
- c) One (1) C11 Safe Control Station Double Integrated Main, XP or substantially similar model.

5.52 The Medstation 3500 Profile six (6) Drawer Main and Medstation 3500 seven (7) drawer Auxiliary must be able to:

- a) Operate in a windows environment.
- b) Archive to network capability.
- c) Contain a second patient identification feature configured at the console in the device settings.
- d) Have a full screen display area.

5.53 The system must be able to produce, at a minimum, the following reports:

- a) Inventory Reports to include:
 - Stockouts – No full/Par levels
 - Stockouts – By Station

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- b) Activity Reports to include:
 - All Station Events
 - Discrepancy Amounts
 - Discrepancy Report
 - High Access User
 - Inventory Verification
 - Month Usage – Crosstab
 - Usage – Multiple Months: Cost/AFHS
 - Usage – Multiple Months: Quantity
 - Usage – By Station
 - Usage – Fast Movers
 - Medication Usage by Classification
 - Medication Usage by Classification (with Meds)
 - Fast Movers
 - Usage – Total quantity withdrawn by station
 - Usage – Transaction Quantities
 - Discrepancy Cost – By Station
 - Month Utilization
- c) Controlled Substance Surveillance Reports:
 - Discrepancies by User
 - Internal Monitoring
 - Nursing Station Frequency Report
 - Quantity Withdrawn >2
- d) System Management Reports:
 - Transactions – Counts by Station (by transaction)
 - Transactions – Counts by Station (total only)
 - Count of Inventories by Date
 - Discrepancies – Time to Discovery/Resolution
 - Stockouts – Number vs. Time of Day
 - Technician – Discrepancy Error Rates
 - Users – Incomplete Name Creation

5.54 The C11 Safe Control Station Double Integrated Main XP (or substantially similar model) must be capable of:

- a) Tracking controlled substance information from disconnected systems.
- b) Electronically verifying the accuracy of the Automated Drug Dispensing station replenishment process (getting the right med to the right station).
- c) Proactively identifying diversion trends in early stages.
- d) Improving patient safety.
- e) Meeting audit requirements
- f) Proactively detecting diversion by tightening security and control.
- g) Inventory and information management.

6. **REPORTS AND DELIVERABLES:**

The Contractor's Pharmacy Computer System shall have the ability to provide the Hospital with various reports. Each report should be available on a regularly scheduled basis as well as on request. All reports should be available in hard copy as well as electronic format. All report formats shall be approved by the Hospital Project Control Manager and the Primary Recipient. The contractor will have the ability to produce Ad Hoc reports based on new requirements in a timely manner. Upon presentation of a report request from the

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Hospital, the contractor shall provide an estimate of the time that will be required to produce the requested report. Ad Hoc reports may become standard reports at the request of the Hospital. The following is a list of the standard reports that should be produced at a minimum:

Report Title	Frequency	Primary Recipient	Description
Drug Utilization	Monthly	Chairperson,P&TC Medical, ACPTC, CCOO	Report to include drug name, strength, dosage form, units dispensed NDC number and cost per unit on each drug dispensed.
Drug Charge-backs	Monthly	COO Business Manager Dir, ACPTC, CCOO	Report shall include vendor name, drug name and strength, quantity of drugs purchased, contract cost of drug, and the difference between contract price and price paid off contract due to vendor inability to provide.
Inventory Control	Monthly	CMO, COO, CCOO Business Manager, Medical, ACPTC	Report shall include the following: Number of out-of-stock situations, dollar amount of expired/non-usable drugs (waste), number of inventory turns per year, amount of dollars tied up in on-hand inventory.
Physician Order Sheets	Monthly	CCOO, Nursing, Medical, ACPTC	Medical and Psychiatric Medication Reviews are printed for each physician's use to complete monthly medication reviews. Report will contain signature lines at the bottom for nurse noting and second checking order.
Drug Interaction	Monthly	CCOO CMO ACNO CNO COO RD Medical, ACPTC	Report lists by individual patient, all drugs ordered which may cause negative reactions if combined. Severity levels range from one (1) for the most severe to three (3) being potentially dangerous. Report must also include patient's name, medical record number, ward, names of the drugs that may interact, what interaction is seen, the effect of the interaction, the severity rating (1-3) of the interaction and the page numbers in Drug Interaction Facts and Hansten that a complete description may be found on.
Food/drug Interaction	Monthly	CCOO, CMO, ACNO, CNO, COO, RD, Medical, ACPTC	Report lists potential food/drug interactions that may occur given the drugs or combination of drugs the patient is on.
Patient Census	Monthly	CCOO CMO CNO	Report shall provide a complete listing of all patients in the system and provide print/sort feature that allows for printing based on: (1) active patient by patient number, (2) active patient by last name, (3) active patient by cart route, (4) discharged patient by patient number, (5) discharged patient by last name, and (6) discharged patient by cart route. Report to contain the following information: date and time of report print, patient number, patient name, patient room number, cart route, physician name and DRG code.
Complete Medication History	Monthly	CCOO CMO CNO Medical, ACPTC	Report shall provide a complete listing of all medications a patient has been on, both active and discontinued. Report may be printed by patient or by cart route. Report shall include date printed, patient name, medical record number, allergies, diagnosis, weight, age, room number, sex, and active orders. Active orders shall include the following information: mnemonic, drug name and strength, drug form, route of administration, unit of measure, date the order was started, expiration date of order, start time, stop time, and administration instructions. The above information relative to active orders shall then be printed out for discontinued orders. Discontinued orders shall be marked to indicate that these orders have been discontinued.
Alternate Therapy	Monthly	CCOO CMO CNO	Report provides cost information for drugs within the same therapeutic class. Report to include the following information: Print date and time, generic name of drug, brand name of drug, drug strength, dosage form, cost of drug, administration route, drug indications, comparative mechanisms of action of the drugs with the same concentrations (where appropriate), drug of choice, then alternative drug recommended, along with additional clinical information about the therapeutic class selected.
Stop Order	Monthly	CCOO CMO CNO Medical, ACPTC	Report produces a listing of all orders which contain stop dates. Report allows one to notify a physician that a particular drug needs to be re-ordered discontinued. Report to include the following information: Print date and time, patient name, medical record number, room number, ward, physician name, drug name and strength, dosage form, route of administration and administration instructions. Print options to include: (1) All patient orders with a stop date, (2) all patient orders with a stop date within 48 hours, (3) all patient drug orders for a specific stop date, (4) all patient IV orders for a specific stop date.

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Report Title	Frequency	Primary Recipient	Description
Medication Administration Records (MAR)	Monthly	CCOO Nursing Medical, ACPTC	Used to document the medications each patient is to receive and the times the medications are to be administered to each patient, also used to document each administration of medication. The Medication Administration Records contain the following information: Print date and time, patient name, medical record number, ward, physician name, allergies, weight, date of birth, diagnosis, drug start date, drug stop date, nurses' initials who transcribed the order, generic drug name and strength, dosage form, route of administration, dates of columns for administration, block to put administration initials in, lines for administering nurses' names and initials, and medication administration times. Contractor will provide a (MAR) form that is approved by the Hospital.
Cost by Medication	Monthly	CCOO, CMO CNO COO Business Manager	Report provides utilization and cost information by each drug dispensed. Report can be tailored to show monthly utilization, unit cost and quantities purchased each month for a one (1) year period. Report can be printed in descending order of drug cost to aid in determining purchase/usage patterns for review to help ensure cost effective drug therapy.
Cost by Patient Care Unit	Monthly	CCOO, CMO, CNO, COO, Business Manager	Same as above except sorted by Patient Care Unit
Performance Improvement	Quarterly	CCOO Performance Improvement Committee Medical, ACPTC	The Contractor shall conduct quality control and performance improvement monitoring and evaluation activities as approved by the Chief Medical Officer. Corrective actions shall be taken by the Contractor as applicable to remedy any deficiencies noted through monitoring activities.
PRN Report	Monthly	CEO, CMO, CCOO	PRN patient specific infection report
Medicare Reports	Monthly	CCOO COO	See 4.8 for specific required reports

ACNO = Assistant Chief Nursing Officer
CCOO = Chief Clinical Operations Officer
CMO = Chief Medical Officer
CNO = Chief Nursing Officer

COO = Chief Operating Officer
CQO = Chief Quality Officer
P&TC = Pharmacy and Therapeutic Committee

7. MATERIAL AND/OR EQUIPMENT:

The Arizona Department of Health Services shall provide the following:

- Work Space
- Facilities – Any repairs needed to Hospital owned equipment or building structures (i.e.: air conditioning, hear, walls, floors, etc...)
- Housekeeping – Hospital provides five (5) day service to the Pharmacy area in the General Services building to include emptying trash, dusting (excluding shelves with drugs), cleaning sink area, and replenishing paper towels/soap, and sweep and floor care.
- Telephone (local only – contractor must arrange for long distance capability)
- Fax Machine
- Copy Machine
- Office Supplies
- Utilities
- Unit dose equipment to include heat sealers and unispense machines for liquid unit dose preparation

The Contractor shall provide the following:

- Computer hardware/software (per requirements)
- Self medication equipment
- Purchase and provide all vehicles necessary to perform and support Pharmacy Services. Replace lost or damaged equipment so that services to the Hospital are not interrupted. Vehicles: Hospital management personnel together with the Contractor shall inspect the equipment provided by the Contractor to make sure it meets the needs of the Hospital. The appearance and cleanliness of equipment shall be maintained by the contractor.

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8. **MEETING AND COMMITTEES:**

Pharmacy personnel shall be required to attend and participate in Hospital meetings and committees which include, but are not limited to the following:

- Pharmacy & Therapeutics Committee both DHS and Hospital
- Fall Prevention Team
- Pain Management
- Patient Safety Team
- Interdisciplinary Health Services Committee
- Clinical Council
- Continuous Survey Readiness Team
- Patient Education
- Patients at High Medical Risk Committee
- New Employee Orientation (Nursing)
- Physician Orientation
- Clinical Practice Guidelines/Protocols

9. **REQUIREMENTS:**

- Contractor shall obey all posted speed limits on Hospital grounds.
- No cameras, including cell phones with built-in cameras, are permitted on Hospital property.
- The Hospital is a drug-, alcohol- and tobacco-free facility.
- No firearms are permitted on Hospital property.
- All Contractor employees working at the Hospital shall pass background and fingerprinting checks prior to commencing work at the Hospital. The Hospital reserves the right to deny access to any employee.

10. **ADDITIONAL REQUIREMENTS AT CONTRACT AWARD:**

Items to be provided by the Contractor as requested within ten (10) days of Contract award, and upon request through the term of the Contract.

- Telephone numbers and e-mail addresses of key personnel
- Licenses and certifications
- Certificate of Liability Insurance
- HIPAA Business Associate Agreement (BAA) - Attachment A
- State of Arizona Substitute W-9 form

11. **DELIVERY SCHEDULE:**

The Contractor shall maintain normal hours, as outlined in **Hours of Operation**. The Pharmacy shall be closed on the following days:

- January 1
- Memorial Day
- July 4
- Labor Day
- Thanksgiving Day
- December 25

SCOPE OF WORK

SOLICITATION NO. HP841091

12. REFERENCE DOCUMENTS:

The following documents are available for review at the ADHS Procurement Office or via Internet links, as noted:

- 12.1 Buildings by Name
- 12.2 Hospital and ACPTC Census
- 12.3 Administrative Rules, Section R9-20-214, Article 2.
- 12.4 Vendor Performance Report
- 12.5 Applicable Hospital Policies and Procedures
- 12.6 JCAHO Procedures – are available for purchase from Joint Commission Resources @ <http://www.jcrinc.com/publications.asp?durki=77#hosplink>
- 12.7 Medicare State Operations Manual: http://www.cms.hhs.gov/manuals/107_som/som107ap_a_hospital.pdf
- 12.8 Hospital Licensing: http://www.azsos.gov/public_services/Title_09/9-10.htm
- 12.9 Behavioral Health Services Licensure: http://www.azsos.gov/public_services/Title_09/9-20.htm

13. NOTICES, CORRESPONDENCE, REPORTS, INVOICES AND PAYMENTS:

- 13.1 Invoices shall be submitted to the Hospital Business Manager on a monthly basis within thirty (30) days after the end of each month. Invoices shall be itemized by the service provided, including but not limited to all payroll records, contracted rates, and any fees agreed upon at the time the contract is issued. The Hospital and ACTPC must be invoiced individually, the split will be provided by the Business Manager after award. The payroll information shall be used only to verify the services reported. The invoices shall be sent to the following address:

Arizona State Hospital
Business Manager
2500 East Van Buren Street
Phoenix, Arizona 85008

- 13.2 Invoices shall be paid by ADHS within thirty (30) days following receipt of the invoice. In the case of any dispute regarding part of any invoice, ADHS shall pay the undisputed part according to the payment terms described above.
- 13.3 Notices, Correspondence, Reports and Payments from The Hospital to the Contractor shall be sent to:

Contractor
Address
Address
City, State, Zip



OFFER AND ACCEPTANCE

SOLICITATION NUMBER: HP841091

**ARIZONA DEPARTMENT
OF HEALTH SERVICES**
1740 West Adams Street
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 Fax

Submit this form with an original signature to the:

**Arizona Department of Health Services
Office of Procurement
1740 West Adams, Room 303
Phoenix, Arizona 85007**

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the solicitation.

Arizona Transaction (Sales) Privilege Tax License No: _____

For Clarification of this Offer, Contact:

Federal Employer Identification No: _____

Name: _____

Telephone: _____

FAX: _____

Company Name

Signature of Person Authorized to Sign Offer

Address

Printed Name

City, State, ZIP Code

Title

OFFER ACCEPTANCE AND CONTRACT AWARD (For State of Arizona Use Only)

Your Offer is hereby accepted as described in the Notice of Award. The Contractor is now bound to perform based upon the Solicitation and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract Number: _____

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until the Contractor receives an executed purchase order or contract release document or written notice to proceed, if applicable.

State of Arizona

Awarded this _____ day of _____, 2007

PROCUREMENT OFFICER

PRICE SHEET SOLICITATION NO. HP841091
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PHARMACY MANAGEMENT SERVICES

SERVICE	UNIT TYPE	QUANTITY	UNIT PRICE	EXTENDED PRICE
PHARMACY/MEDICATION MANAGEMENT SERVICES	MONTHLY	12		
UPDATING CURRENT PYXIS AUTOMATED MEDICATION DISPENSING EQUIPMENT AND SUPPORT	MONTHLY	12		


Please check as many as applicable:

_____ I certify that my company is a Woman-Owned Business Enterprise (WBE).

A WBE is defined as an enterprise where a woman owns at least fifty-one percent (51%) of the business. The owner(s) must have the day-to-day control of the firm and have experience and expertise in the firm's primary area of operation. The owner(s) must hold a proportionate share of the business capital, assets, profits and losses commensurate with their ownership interest.

_____ I certify that my company is a Minority-Owned Business Enterprise (MBE).

An MBE is defined as an enterprise where an ethnic minority owns at least fifty-one percent (51%) of the business. The owner(s) must have the day-to-day control of the firm and have experience and expertise in the firm's primary area of operation. The owner(s) must hold a proportionate share of the business capital, assets, profits and losses commensurate with their ownership interest.

	<h1 style="margin: 0;">CERTIFICATE OF INSURANCE</h1> <h2 style="margin: 0;">EXHIBIT A</h2>	ARIZONA DEPARTMENT OF HEALTH SERVICES 1740 W. Adams, Room 303 Phoenix, Arizona 85007 (602) 542-1040 (602) 542-1741 Fax
Solicitation No: HP841091		
PRIOR TO COMMENCING SERVICES UNDER THIS CONTRACT, THE CONTRACTOR MUST FURNISH THE DEPARTMENT, CERTIFICATION FROM INSURER(S) FOR COVERAGES IN THE MINIMUM AMOUNTS AS STATED BELOW, THE COVERAGES SHALL BE MAINTAINED IN FULL FORCE AND EFFECT DURING THE TERM OF THIS CONTRACT, AND SHALL NOT SERVE TO LIMIT ANY LIABILITIES OR ANY OTHER CONTRACTOR OBLIGATIONS		
NAME AND ADDRESS OF INSURANCE AGENCY	A	COMPANY LETTER COMPANIES AFFORDING COVERAGE
	B	
Name And Address of Insured	C	
	D	
This is to certify that the policies of insurance listed below have been issued to the insured named above and are in force at this time		
Company Letter	Type of Insurance	Policy Number Policy Expiration Date Limits of Liability Minimum – Each Occurrence
	<input type="checkbox"/> Comprehensive General Liability <input type="checkbox"/> Premises Operations <input type="checkbox"/> Contractual <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Personal Injury <input type="checkbox"/> Broad Form Property Damage <input type="checkbox"/> Explosion & Collapse (If Applicable) <input type="checkbox"/> Underground Hazard (If Applicable)	
	<input type="checkbox"/> Comprehensive Auto Liability Including Non-Owned (If Applicable)	
	<input type="checkbox"/> Umbrella Liability	
	<input type="checkbox"/> Workmen's Compensation and Employer's Liability	
	<input type="checkbox"/> Other	
State of Arizona and the Department named above are added as additional insured as required by statute, contract, purchase order or otherwise requested. It is agreed that any insurance available to the named insured shall be primary of other sources that may be available.		It is further agreed that no policy shall expire, be canceled or materially changed to affect the coverage available to the State without thirty (30) days written notice to the State. THIS CERTIFICATE IS NOT VALID UNLESS COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE INSURANCE COMPANY.
Name and Address of Certificate Holder:		
Date Issued _____ _____ Authorized Representative		

ATTACHMENT A

HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 ("HIPAA") BUSINESS ASSOCIATE AGREEMENT ("AGREEMENT")

The Arizona Department of Health Services or an Arizona Department of Health Services' Division, Bureau, Office, or Program and Business Associate hereby enter into this Agreement. The date when this Agreement is effective ("Effective Date") shall be determined according to Sections 164.534, 164.532(d), and 164.532(e) of the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and Part 164, Subparts A and E ("Privacy Standards"). This Agreement supplements any service agreement(s) ("Service Agreement(s)") between ADHS Covered Component and Business Associate relating to the disclosure of Protected Health Information ("PHI"). In the event of conflicting terms or conditions, this Agreement shall supersede the Service Agreement(s).

The ADHS Covered Component and Business Associate intend to comply with the Privacy Standards; the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C ("Security Standards"); HIPAA; and other applicable federal and state laws, in order to protect the privacy of PHI in any form and to safeguard the confidentiality, integrity, and availability of Electronic PHI ("ePHI") related to this Agreement.

1. **DEFINITIONS.** Capitalized terms not otherwise defined in this Agreement shall have the same meaning as in the Privacy Standards and the Security Standards.
 - a.
2. **PERMITTED USES AND DISCLOSURES OF PHI.** Business Associate will Use and disclose PHI only for those purposes necessary to perform functions, activities, or services for, or on behalf of, ADHS Covered Component as specified in the underlying Service Agreement(s) and this Agreement, provided that any Use or Disclosure would not violate: the Privacy Standards, the Security Standards, or HIPAA, if done by ADHS Covered Component; or ADHS Covered Component's policies and procedures for using or disclosing only the Minimum Necessary PHI.
 - A. **Business Activities of Business Associate.** Business Associate may use PHI for the necessary management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate if:
 - i. The disclosure is Required by Law; or
 - ii. Business Associate obtains reasonable assurances from the person-receiving the PHI that the person will:
 - a. Maintain the Confidentiality of the PHI,
 - b. Use or disclose the PHI only as Required by Law or for the purpose for which the PHI was disclosed to the person, and
 - c. Notify Business Associate when the person becomes aware that PHI confidentiality has been breached.
 - B. **Aggregation of PHI.** Business Associate may aggregate the PHI in its possession with the PHI of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate of the other Covered Entities, provided that the purpose of the aggregation is to provide ADHS Covered Component with data analyses relating to the Health Care Operations of ADHS Covered Component. Business Associate shall not disclose PHI between or among Covered entities, unless ADHS Covered Component specifically authorizes the disclosure.
 - C. **De-Identification of PHI.** Under 45 CFR 164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this Agreement. Business Associate may de-identify any and all PHI, provided:
 - i. The de-identification conforms to the requirements of 45 CFR Section 164.514(b),
 - ii. Business Associate maintains the documentation required by 45 CFR Section 164.514(b), and
 - iii. Business Associate gives written assurance to ADHS Covered Component that Business Associate appropriately maintains the documentation required by 45 CFR Section 164.514(b).

3. **OBLIGATIONS OF BUSINESS ASSOCIATE REGARDING PHI IN ANY FORM.**

- A. **Safeguards.** Business Associate shall use appropriate safeguards to prevent any Use or Disclosure of PHI not otherwise permitted in this Agreement.
- B. **Reporting Impermissible Use or Disclosure.** Business Associate shall report promptly to ADHS Covered Component any Use or Disclosure of PHI not permitted by this Agreement or the Privacy Standards (“Impermissible Use or Disclosure”), upon becoming aware of an Impermissible Use or Disclosure. Business Associate agrees to mitigate, to the extent practicable, any harmful effect from an Impermissible Use or Disclosure known to Business Associate or its agents or subcontractors.
- C. **Agents and Subcontractors.** Business Associate shall ensure that any agent or subcontractor to whom Business Associate provides PHI agrees to all the PHI-related restrictions and conditions that apply to Business Associate through this Agreement. Business Associate shall maintain an accounting of all disclosures of PHI to agents or subcontractors as provided in this Agreement.
- D. **Personnel.** Business Associate shall appropriately inform all of its employees, agents, representatives, and members of its workforce (“Personnel”), whose services may be used to satisfy Business Associate’s obligations under this Agreement and the Service Agreement(s), of the terms of this Agreement. Business Associate represents and warrants that the Personnel are under sufficient legal obligation to Business Associate for Business Associate to fully comply with the provisions of this Agreement.
- E. **Access to PHI.** Within five (5) business days after a written request by ADHS Covered Component for access to PHI held by Business Associate in a designated record set, Business Associate shall make the requested PHI available to ADHS Covered Component. If the requested PHI is stored off site, Business Associate shall make the PHI available to ADHS Covered Component within ten (10) business days, to allow ADHS Covered Component time to respond to a request for access by an Individual within 60 calendar days.

If an Individual requests access to PHI directly from Business Associate, Business Associate shall provide or deny access according to 45 CFR 164.524, unless otherwise directed by ADHS Covered Component. Business Associate shall notify ADHS Covered Component of the action taken in writing within five (5) business days after the action.

- F. **Amendment of PHI.** Within five (5) business days after an Individual’s request to ADHS Covered Component to amend the Individual’s PHI held by Business Associate in a Designated Record Set, Business Associate shall provide the Individual’s PHI to ADHS Covered Component for amendment. If ADHS Covered Component requests Business Associate to amend an Individual’s PHI, Business Associate shall incorporate into the Individual’s PHI the amendment, any statements of disagreement, and/or rebuttals within a reasonable time, as required by 45 CFR Section 164.526.

If an Individual requests amendment of PHI directly from Business Associate, Business Associate shall amend or deny amendment according to 45 CFR 164.526, unless otherwise directed by ADHS Covered Component. Business Associate shall notify ADHS Covered Component of the action taken in writing within five (5) business days after the action.

- G. **Documentation of Disclosures.** Business Associate agrees to document all Disclosures of PHI made by Business Associate as required for ADHS Covered Component to respond to a request by an Individual for an accounting of Disclosures of PHI according to 45 CFR Section 164.528. At a minimum, the documentation related to Business Associate’s Disclosure of PHI shall include:
 - i. The date of Disclosure;
 - ii. The name of the PHI recipient and, if known, the address of the PHI recipient;
 - iii. A brief description of the PHI disclosed; and
 - iv. A brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the Disclosure, or a copy of the Individual’s authorization, or a copy of the written request for Disclosure.

- H. **Accounting of Disclosures.** Within ten (10) business days after notice by ADHS Covered Component to Business Associate that ADHS Covered Component has received a request for an accounting of Disclosures of an Individual's PHI, Business Associate shall provide ADHS Covered Component with the Disclosure records stated in the notice. Business Associate shall provide Disclosure records for the six years before the date on which the Individual requested the accounting, but not for a date earlier than April 14, 2003, unless otherwise Required by Law.

If an Individual requests an accounting of Disclosures directly from Business Associate, Business Associate shall, within sixty (60) business days, provide or deny an accounting according to 45 CFR 164.528, unless otherwise directed by ADHS Covered Component. Business Associate shall notify ADHS Covered Component of the action taken in writing within five (5) business days after the action. The accounting of Disclosures shall include all PHI Disclosures for the six years before the date on which the Individual requested the accounting, but not for a date earlier than April 14, 2003, unless otherwise Required by Law. If Business Associate is unable to provide the accounting of Disclosures within the allowed time, Business Associate shall provide ADHS Covered Component with a written statement of the reason for delay and the date Business Associate will provide the accounting.

- I. **Governmental Access to Records.** For the purpose of determining ADHS Covered Component's compliance with the Privacy Standards, Business Associate shall make available to ADHS Covered Component or to the Secretary:
- i. Business Associate's internal practices, books, and records relating to the Use and Disclosure of PHI;
 - ii. Business Associate's policies and procedures relating to the Use and Disclosure of PHI; and
 - iii. All PHI received from ADHS Covered Component or created or received by Business Associate on behalf of ADHS Covered Component.

This provision does not constitute a waiver by ADHS Covered Component of any attorney-client privilege or other legal privilege.

- J. **Transaction Standards Regulation.** If Business Associate conducts in whole or part Standard Transactions for or on behalf of ADHS Covered Component, Business Associate shall comply with the Electronic Data Transaction Standards and Code Sets, 45 CFR Part 162, Subparts I through R ("Transaction Standards and Code Sets"). Business Associate shall require any subcontractor or agent involved in conducting Standard Transactions for or on behalf of ADHS Covered Component, to comply with the Transaction Standards and Code Sets. Business Associate and its subcontractors or agents shall not enter into any agreement related to conducting in whole or in part Standard Transactions for or on behalf of ADHS Covered Component that:

- i. Changes the definition, Data Condition, or use of a Data Element or Segment in a Standard Transaction;
- ii. Adds any Data Elements or Segments to the maximum defined Data Set;
- iii. Uses any code or Data Element that is marked "not used" in the Standard Transaction's implementation specification or that is not in the Standard Transaction's implementation specification; or
- iv. Changes the meaning or intent of the Standard Transaction's implementation specification.

4. **OBLIGATIONS OF BUSINESS ASSOCIATE REGARDING ePHI.**

- A. **Safeguards.** Business Associate shall implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of the ePHI that Business Associate creates, receives, maintains, or transmits on behalf of ADHS Covered Component.
- B. **Agents and Subcontractors.** Business Associate shall ensure that any agent or subcontractor to whom Business Associate provides ePHI agrees to implement reasonable and appropriate safeguards to protect the Confidentiality, Integrity, and Availability of the ePHI.
- C. **Report of Security Incident.** Business Associate shall promptly report to ADHS Covered Component any Security Incident of which Business Associate becomes aware that involves ePHI created, received, maintained, or transmitted by Business Associate.

- D. **Governmental Access to Records.** Business Associate shall make its policies, procedures, and the documentation required by the Security Standards available to ADHS Covered Component and to the Secretary for purposes of determining ADHS Covered Component's compliance.
- E. **Termination Authorized.** Business Associate agrees that ADHS Covered Component may terminate this Agreement if ADHS Covered Component determines that Business Associate has violated a material term of this Agreement related to the Security of ePHI.

5. **OBLIGATIONS OF ADHS COVERED COMPONENT.**

- A. **Notice of Privacy Practices.** ADHS Covered Component shall notify Business Associate of any changes or limitation(s) in ADHS Covered Component's notice of privacy practices according to 45 CFR Section 164.520, to the extent that such changes or limitation(s) may affect Business Associate's Use or Disclosure of PHI.
- B. **Changes in Permission by Individual.** ADHS Covered Component shall notify Business Associate of any changes in, or revocation of, an Individual's permission to Use or disclose PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.
- C. **Restrictions on PHI.** ADHS Covered Component shall notify Business Associate of any restriction of PHI Uses and Disclosures that ADHS Covered Component has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect Business Associate's PHI Use or Disclosure.
- D. **Permissible Requests by ADHS Covered Component.** ADHS Covered Component shall not request Business Associate to Use or disclose PHI in any manner not permitted under the Privacy Standards if done by ADHS Covered Component.

6. **TERM AND TERMINATION**

- A. **Term.** The term of this Agreement shall begin on the Effective Date and shall terminate when all PHI provided by ADHS Covered Component to Business Associate, or created or received by Business Associate on behalf of ADHS Covered Component, is destroyed or returned to ADHS Covered Component. If it is not feasible for Business Associate to return or destroy all PHI, the term of this Agreement shall terminate, except to the extent protections are extended to any PHI not returned or destroyed, according to the provisions in paragraph (B)(ii) of this Section (6).
- B. **Effect of Termination.**
 - i. Except as provided in paragraph (ii) of this Subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from ADHS Covered Component, or created or received by Business Associate on behalf of ADHS Covered Component.
 - ii. This provision shall apply to PHI in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the returned or destroyed PHI.
 - ii. If Business Associate determines that returning or destroying PHI is not feasible, Business Associate shall provide to ADHS Covered Component notification of the conditions making return or destruction not feasible. Business Associate shall extend the protections of this Agreement to the PHI and shall limit further Uses and Disclosures of the PHI to the purposes that make the return or destruction not feasible, for so long as Business Associate maintains the PHI. If it is not feasible for Business Associate to recover from a subcontractor or agent any PHI, Business Associate shall provide a written explanation to ADHS Covered Component. Business Associate shall require the subcontractor or agent to agree:
 - a. To extend the protections of this Agreement to the PHI in the possession of the subcontractor or agent, and
 - b. To limit any further Uses or Disclosures of the PHI to the purposes that make the return or destruction not feasible, for so long as the subcontractor or agent maintains the PHI.
- C. **Termination for Cause.** Upon ADHS Covered Component's knowledge of a material breach by Business Associate of the terms of this Agreement, ADHS Covered Component shall:
 - ii. Terminate this Agreement and the underlying Service Agreement(s) if Business Associate does not cure the breach or end the violation within the time specified by ADHS Covered Component;
 - ii. Immediately terminate this Agreement and the underlying Service Agreement(s); or

- iii. Report the violation to the Secretary if:
 - a. Termination is not feasible, and
 - b. Business Associate does not cure the breach or end the violation within the time specified by ADHS Covered Component.

7. MISCELLANEOUS

- A. **References.** A reference in this Agreement to HIPAA, the Privacy Standards, or the Security Standards means the law or regulation as in effect on the Effective Date or as subsequently amended, and for which compliance is required.
- B. **Amendment.** The parties agree to take the action necessary to amend this Agreement from time to time so that ADHS Covered Component may comply with the requirements of HIPAA.
- C. **Survival.** The obligations of Business Associate under this Agreement shall survive the termination of this Agreement and of the underlying Service Agreement(s) to the extent required by Section (6), paragraph (B)(ii).
- D. **Effect on Service Agreement(s).** Except as specifically required to implement the purposes of this Agreement, or to the extent not consistent with this Agreement, all provisions of the underlying Service Agreement(s) shall remain in force and effect.

<p>Contractor hereby acknowledges receipt and acceptance of this HIPAA Agreement and that a signed copy must be filed with the Procurement Office.</p> <p>_____ Signature Date</p> <p>_____ Authorized Signatory's Name and Title:</p> <p>_____ Contractor's Name</p>	<p>The above referenced HIPAA Agreement is hereby executed this _____ day of _____ 20__ by the Arizona Department of Health Services.</p> <p>_____ Procurement Officer</p>
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